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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/439,264	11/12/1999	KUNIHIKO MIWA	JA9-98-171	1450

26582 7590 01/19/2005

HOLLAND & HART, LLP
555 17TH STREET, SUITE 3200
DENVER, CO 80201

EXAMINER	
BACKER, FIRMIN	

ART UNIT	PAPER NUMBER
3621	

DATE MAILED: 01/19/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	09/439,264	MIWA ET AL.	
	Examiner	Art Unit	
	Firmin Backer	3621	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *08 November 2004* .

2a)☒ This action is **FINAL**. 2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *35-41* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *35-41* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

11)☐ The proposed drawing correction filed on _____ is: a)☐ approved b)☐ disapproved by the Examiner.

If approved, corrected drawings are required in reply to this Office action.

12)☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

13)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____ .

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

14)☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).

a) ☐ The translation of the foreign language provisional application has been received.

15)☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 3 .
4) ☐ Interview Summary (PTO-413) Paper No(s). _____ .
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other: .

Response to Amendment

1. An amendment has been filed on May 24th, 2004. In the amendment claims 35-41 have been amendment, no claim has been added and no claim has been canceled. Claims 35-41 remain currently pending in the application.

Response to Arguments

2. Applicant's arguments with respect to claims 35-41 have been considered but are moot in view of the new ground(s) of rejection.

Claim Rejections - 35 USC § 103

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

2. Claims 35-41 are rejected under 35 U.S.C. 103(a) as being unpatentable over Wehrenberg (U.S. PG Pub No. 2003/0126445) in view of IKEDA et l

3. As per claim 35, Wehrenberg teaches a method of recording (*recording)* digital data (*content)* onto a medium (*DVD, 340)* using only a digital watermark (*watermark)* to control a recording process and for indicating the addition of a copy mark to the digital data (*see paragraph 0069)*, comprising detecting from the digital data any digital watermark that may be

electronically embedded in the digital data, wherein the digital watermark is electronically embedded in the digital data through a transformation of the digital data (*see paragraphs 0035)*, if the digital watermark is detected, determining if the digital watermark specifies that a copy mark be embedded in the digital data so as to control subsequent recording of the digital data (*see paragraphs 0040-0042)*, if the results of the detection and the determination indicate that subsequent recording of the digital data is to be controlled, embedding a copy mark in the digital data, scrambling the digital data together with the watermark and the copy mark using an encryption key (*see paragraphs 0040-0042)*, encoding the scrambled digital data using the encryption key; and recording the scrambled and encoded digital data onto a medium so as to control subsequent copying or playback of the-digital data as a function of the copy mark (*see paragraphs 0040-0042)*. Wehrenberg fail to teach an inventive concept of a video card driver executor and a MPEG digital data. However, Ikeda et al teach inventive concept of a video card driver executor and a MPEG digital data (*see paragraph 0029)*. Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the inventive concept of Wehrenberg to include the Ikeda et al's inventive concept of a video card driver executor and a MPEG digital data because this would have provided a system of editing digital continuous data recorded in an optional area from a plurality of areas in different positions with respect to the radial direction of a recording medium so as to be recorded in the recording medium as one digital continuous data, the editing efficiency can be improved by controlling the digital continuous data, which can be anticipated to be the reproduced continuous data after editing, to be reproduced continuously before editing, since the editing operation can be confirmed beforehand.

4. As per claim 36, Wehrenberg teaches a method wherein the copy mark indicates whether copying/recording of the digital data is to be stopped or continued (*see paragraphs 0043)*.

5. As per claim 37, Wehrenberg teaches a method of performing playback control of digital data that is both scrambled-and encoded using a common encryption key for both scrambling and encoding, to thereby produce scrambled and encoded digital data, wherein the scrambled and encoded digital data is then recorded onto a medium, comprising reading the scrambled and encoded digital data from the medium to thereby produce read digital data, descrambling and decoding the read digital data using the common encryption key, to thereby generate descrambled and decoded digital data, detecting any digital watermark and copy mark that is electronically embedded in the descrambled and decoded digital data, wherein the digital watermark is embedded in the descrambled and decoded digital data through a transformation of the digital data, and wherein the copy mark is embedded in the descrambled and decoded digital data as a function of a content of the digital watermark, and controlling playback of the descrambled and decoded digital data using only the copy mark (*see paragraphs 0047, 0048)*. Wehrenberg fail to teach an inventive concept of a video card driver executor and a MPEG digital data subjecting said descrambled MPEG digital data to MPEG decoding using said common encryption key to thereby generate MPEG decoded digital data. However, Ikeda et al teach inventive concept of a video card driver executor and a MPEG digital data and subjecting said descrambled MPEG digital data to MPEG decoding using said common encryption key to thereby generate MPEG decoded digital data (*see paragraph 0029)*. Therefore, it would have

been obvious to one of ordinary skill in the art at the time the invention was made to modify the inventive concept of Wehrenberg to include the Ikeda et al's inventive concept of a video card driver executor and a MPEG digital data and subjecting said descrambled MPEG digital data to MPEG decoding using said common encryption key to thereby generate MPEG decoded digital data because this would have provided a system of editing digital continuous data recorded in an optional area from a plurality of areas in different positions with respect to the radial direction of a recording medium so as to be recorded in the recording medium as one digital continuous data, the editing efficiency can be improved by controlling the digital continuous data, which can be anticipated to be the reproduced continuous data after editing, to be reproduced continuously before editing, since the editing operation can be confirmed beforehand.

6. As per claim 38, Wehrenberg teaches a video driver card for decoding scrambled and encoded digital data wherein original digital data is both scrambled and encoded using a common encryption key comprising means for both descrambling and decoding the scrambled and encoded digital data using the common encryption key, to thereby reproduce the original digital data, means for detecting from the original digital data any digital watermark and digital copy mark electronically embedded in the original digital data, wherein the electronically embedded digital watermark is embedded in the original digital data through a transformation of the original digital data, and wherein the embedded digital copy mark is embedded in the original digital data as a function of a content of the digital watermark, and means for controlling inhibition of playback of the original digital data using only digital copy mark (*see paragraphs 0040-0042)*. Wehrenberg fail to teach an inventive concept of a video card driver executor and a

MPEG digital data. However, Ikeda et al teach inventive concept of a video card driver executor and a MPEG digital data (*see paragraph 0029).* Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the inventive concept of Wehrenberg to include the Ikeda et al's inventive concept of a video card driver executor and a MPEG digital data because this would have provided a system of editing digital continuous data recorded in an optional area from a plurality of areas in different positions with respect to the radial direction of a recording medium so as to be recorded in the recording medium as one digital continuous data, the editing efficiency can be improved by controlling the digital continuous data, which can be anticipated to be the reproduced continuous data after editing, to be reproduced continuously before editing, since the editing operation can be confirmed beforehand.

7. As per claim 39, Wehrenberg teaches a video driver card wherein the original digital data is an MPEG stream, and wherein the means for controlling inhibition of playback includes means for determining whether or not outputting the MPEG stream is to be performed, and includes means for outputting the MPEG stream (*see paragraphs 0040, 0041, 0049).*

8. As per claim 40, Wehrenberg teaches a player for playing-back scrambled and encoded digital data that is recorded onto a medium, wherein both scrnmbling and encoding of the digital data is performed using a common encryption key, comprising means for reading the scrambled and encoded digital data from the medium, means for both descrambling and decoding the read digital data using the common encryption key, to thereby recover the digital data, means for

detecting from the recovered digital data any digital watermark and digital copy mark that is electronically embedded in the recovered digital data, wherein the digital watermark is electronically embedded through a transformation of the digital data, and wherein the digital watermark is electronically embedded as a function of a content of the digital watermark, and means for controlling inhibition of playback of the recovered digital data using only the detected copy mark (*see paragraphs 0047-0049)*. Wehrenberg fail to teach an inventive concept of a video card driver executor and a MPEG digital data. However, Ikeda et al teach inventive concept of a video card driver executor and a MPEG digital data (*see paragraph 0029)*. Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the inventive concept of Wehrenberg to include the Ikeda et al's inventive concept of a video card driver executor and a MPEG digital data because this would have provided a system of editing digital continuous data recorded in an optional area from a plurality of areas in different positions with respect to the radial direction of a recording medium so as to be recorded in the recording medium as one digital continuous data, the editing efficiency can be improved by controlling the digital continuous data, which can be anticipated to be the reproduced continuous data after editing, to be reproduced continuously before editing, since the editing operation can be confirmed beforehand.

9. As per claim 41, Wehrenberg teaches a player wherein means for controlling inhibition of playback (d) includes means for determining whether or not outputting of the MPEG stream is to be performed, and includes means for outputting the MPEG stream (*see 0040, 0041, 0049)*.

Conclusion

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Firmin Backer whose telephone number is (703) 305-0624. The examiner can normally be reached on Mon-Thu 9:00 AM - 5:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, James Trammell can be reached on (703) 305-9768. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Firmin Backer
Primary Examiner
Art Unit 3621

January 17, 2005